

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RAQUELLE DEFELICE,
Plaintiff,

v.

THONG V. NGUYEN,
Defendant.

CIVIL ACTION NO.

05-30198-MAP

COMPLAINT AND DEMAND FOR JURY TRIAL

1. This is an action by Plaintiff, RAQUELLE DEFELICE, for money damages arising from personal injuries which were caused by the negligence, recklessness, carelessness, and unlawful actions of the Defendant, THONG V. NGUYEN.

JURISDICTION

2. Jurisdiction of this Court is based on diversity of citizenship of the parties. The amount in controversy exceeds the sum of \$ 75,000.00, exclusive of interest and costs.

VENUE

3. Venue in this District is based on 28 U.S.C., 1391 as this claim arose in the

5X +
5-24-05

Commonwealth of Massachusetts.

PARTIES

4. The Plaintiff, RAQUELLE DEFELICE, is a citizen and resident of the Commonwealth of Massachusetts, with an address of 18 West Green Street, Easthampton, Hampshire County, Massachusetts.
5. The Defendant, THONG V. NGUYEN, is a citizen and resident of the State of California, with an address of 22245 Crane Street, Lake Forest, California.

FACTUAL ALLEGATIONS

6. On or about August 21, 2005 at approximately 4:52 p.m., the Plaintiff was the owner and operator of a 1997 Mercury sedan, Massachusetts Registration No. 41ME37.
7. On said date and time, the Defendant, THONG V. NGUYEN, was the operator of a 2005 Ford F150, Massachusetts Registration No. 28AV48, owned by Enterprise Rent-A- Car.

COUNT I - NEGLIGENCE

RAQUELLE DEFELICE v. THONG V. NGUYEN

8. On or about August 21, 2005, at approximately 4:52 p.m., the Plaintiff, RAQUELLE DEFELICE, was operating the aforementioned motor vehicle northbound on the off-ramp of the Exit 6 Interchange of the Massachusetts Turnpike in Chicopee, Massachusetts, and was attempting to make a left turn on a green traffic light onto Route 291 eastbound.
9. On said date and time, the Defendant, THONG V. NGUYEN, was operating the aforementioned motor vehicle eastbound at the intersection of Route 291 and the Massachusetts Turnpike Interchange #6 in Chicopee when he failed to stop for a red light, entered said intersection, and collided with the vehicle operated by the Plaintiff.
10. While operating said motor vehicle, the Defendant, THONG V. NGUYEN, committed negligent acts or omissions, including but not limited to the following:
 - a. negligently failing to maintain a proper lookout for dangers, obstacles, and motor vehicles in the path of his vehicle;
 - b. negligently failing to keep his vehicle in proper control;
 - c. negligently failing to operate his vehicle so as to avoid a collision with the Plaintiff;

- d. negligently failing to give his full time and attention to the operation of his motor vehicle;
 - e. negligently failing to sound his horn;
 - f. negligently failing to utilize his brakes;
 - g. negligently failing to stop for a red light; and
 - h. such other negligent and improper actions as may be discovered in the further investigation and pre-trial discovery of this claim.
11. As a direct and proximate result of the aforesaid negligence and carelessness of the Defendant, THONG V. NGUYEN, the Plaintiff, RAQUELLE DEFELICE, has received serious and grievous physical injuries, including but not limited to lacerations to the face and left arm, and a lacerated left cornea which will require her to undergo corneal transplant surgery. Some or all of these injuries and their affects may be permanent in nature, resulting in permanent loss of function, scarring and disfigurement.
12. As a further result, the Plaintiff has suffered continuous physical pain, nervousness, anxiety, and depression and will continue to suffer the same in the

future.

13. As a further result, the Plaintiff's ability to enjoy life and carry on her usual activities, hobbies, and recreations has been impaired for the rest of her life.
14. As a further result, the Plaintiff has incurred medical bills for treatment and care and will continue to do so in the future.
15. As a further result, the Plaintiff has incurred lost wages and lost earning capacity.

WHEREFORE, the Plaintiff, RAQUELLE DEFELICE, prays for judgment against the Defendant, THONG V. NGUYEN, in the sum of FIVE MILLION DOLLARS (\$5,000,000.00) in compensatory damages, together with interest, costs, expert witness fees, attorney's fees, and such other and further relief as the Court may deem just and proper.

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY ON ALL COUNTS

Respectfully submitted,

THE PLAINTIFF

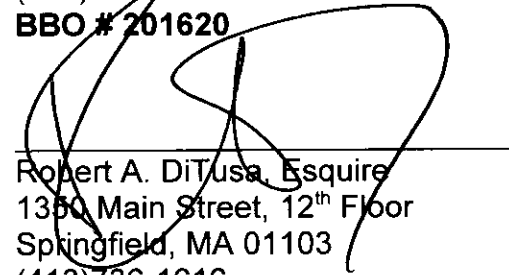
Dated: 9/6/2005

By:



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JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

RAQUELLE DEFELICE

(b) County of Residence of First Listed Plaintiff Hampshire
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Alan R. Goodman, Esquire, 1350 Main Street,
Springfield, MA 01103 (413) 736-1616

DEFENDANTS

THONG V. NGUYEN

County of Residence of First Listed Defendant Orange county, CA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC section 1332

Brief description of cause:

Personal injury resulting from a motor vehicle collision**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$5,000,000

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE
9/6/05

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

306037

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Raquelle Defelice v. Thong V. Nguyen

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ___ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ___ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. for patent, trademark or copyright cases
- X III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,
380, 385, 450, 891.
- ___ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660,
690, 810, 861-865, 870, 871, 875, 900.
- ___ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒ NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☐ Central Division ☐ Western Division ☒

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Alan R. Goodman, EsquireADDRESS 1350 Main Street, Springfield, MA 01103TELEPHONE NO. (413) 736-1616